

ORDINANCE NO. 563

AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES REGARDING PROLONGED CONSTRUCTION PROJECTS THAT ARE ADVERSELY AFFECTING NEIGHBORING PROPERTIES, REPEALING ORDINANCE NO. 548U AND ORDINANCE NO. 549 AND AMENDING THE RANCHO PALOS VERDES MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 15 of the Rancho Palos Verdes Municipal Code is hereby amended by adding new chapter 15.46 thereto to read as follows:

Chapter 15.46

TIME LIMITS FOR COMPLETION OF CONSTRUCTION*

Sections:

15.46.010 Short title.

15.46.020 Purpose.

15.46.030 Application.

15.46.040 Construction completion.

15.46.050 Time limits for construction completion.

15.46.060 Other time limits.

15.46.070 Effect of failure to comply with time limits for construction completion.

15.46.080 Construction completion deposit.

15.46.090 Appeals.

15.46.100 Administration and enforcement.

15.46.010 Short title.

This chapter shall be known as the "Construction Completion Chapter."

15.46.020 Purpose.

It is the intent of this chapter to provide a mechanism to require property owners seeking to improve their properties to complete said construction in a reasonable amount of time as provided in the code. The goal is to ensure neighbors and neighborhoods quality of life is maintained and activities associated with construction such as increased noise, traffic and associated impacts are managed in a way to ensure construction is completed in a timely way.

15.46.030 Application.

This chapter shall apply to construction projects, including all additions, alterations, remodels, modifications, repairs, and improvements, performed pursuant to one or more unexpired

building permits for a period of at least four years that are adversely affecting adjacent properties or the owners or occupants thereof, as documented in written complaints submitted to the building official or director of community development, referred to as "applicable work." The obligations imposed by this chapter to timely complete construction and pay all penalties for construction not timely completed shall run with the land and apply not only to the original building permit property owner but to all subsequent owners of the subject property until all obligations imposed by this chapter are fully satisfied.

15.46.040 Construction completion.

For the purposes of this chapter, construction shall be deemed complete upon the satisfactory performance of all construction work, including but limited to compliance with all conditions of application approval and the clearing and cleaning of all construction-related materials and debris from the site, and the final inspection and written approval of the applicable work by the City building official.

15.46.050 Time limits for construction completion.

The maximum time for completion of construction shall not exceed the time periods for the expiration of permits that are set forth in Section 15.18.050 of this Code

15.46.060 Other time limits.

(a) No building permit shall be issued for any project that is subject to the provisions of this chapter within eighteen months of final inspection or expiration of an antecedent building permit unless the building official determines that the earlier issuance of a building permit will not cause significant harm or adverse effects on the surrounding neighborhood. This section shall not apply to:

(1) Emergency work;

(2) Work that is necessary to preserve the integrity of the structure or the property; or

(3) Work that, in the opinion of the building official, will mitigate impacts upon an adjacent property.

(b) In making a determination pursuant to this section, the building official shall consider traffic, parking, noise and other environmental impacts on the neighborhood from waiving the eighteen month waiting period and the visual, drainage, safety and other environmental impacts of any uncompleted construction.

(c) The building official also shall consider whether the property owner's inability to timely complete the project was completely beyond the control of the property owner and his/her representatives.

(1) Such reasons shall include, but are not limited to: labor stoppages; acts of war or terrorism; natural disasters; fire; presence of endangered species, and unforeseen discovery of archaeological remains on the building site.

(2) Such reasons shall not include: delays caused by the winter-rainy season; the use of custom and/or imported materials; the use of highly specialized subcontractors; significant, numerous, or late design changes; access difficulties associated with the site; failure of materials suppliers to provide such materials in a timely manner; or delays associated with project financing.

(d) A decision of the building official made pursuant to this section may be appealed to the City Council by any interested party.

15.46.070 Effect of failure to comply with time limits for construction completion.

(a) Upon failure of a property owner to complete construction of a project that is subject to the provisions of this chapter, as set forth in Section 15.46.030, by the permit expiration dates established in Section 15.18.050, the following penalties shall apply:

(1) For the first thirty days that the project remains incomplete the City shall not impose a penalty.

(2) For the thirty-first through sixtieth days that the project remains incomplete, the City shall impose a penalty of two hundred fifty dollars (\$250) per day.

(3) For the sixty-first through the one hundred twentieth days that the project remains incomplete, the City shall impose a penalty of five hundred dollars (\$500) per day.

(4) For the one hundred twenty-first day, and any additional days thereafter that the project remains incomplete, the City shall impose a penalty of two thousand dollars (\$2,000) per day.

(b) Penalties, fees, and costs due to the City pursuant to this chapter shall accrue for each day the project exceeds the construction completion deadline.

(c) Upon failure of a property owner to complete construction by the time limits established by this chapter, the building permit shall expire and the building official shall cause all work at the site for such construction to cease. Before a new permit is issued, the building official shall require the submission of an additional construction completion deposit in excess of the amount provided by Section 15.46.080 to ensure that all penalties related to the late construction are fully paid to the City. The amount of the additional deposit shall be computed by the building official's estimate of the amount of time that will be required to complete the construction and the amount of the penalties that will accrue during this time period. The building official may impose additional conditions on the building permit to mitigate any adverse impacts on the surrounding area due to the continued construction. Upon the submission of the additional deposit and new permit fees, the building official may reissue the building permit, and the property owner may recommence work under the permit in accordance with its terms.

(d) The building official may declare construction abandoned after the building permit expires and construction activities on the subject property cease for a period of more than 180 days. At that time, the building official may impose conditions requiring remedial measures to be implemented by the property owner that clean-up the site, remove any hazardous or unsightly conditions, and restore the property and all improvements on the property to an attractive condition. The building official shall send written notice to the property owner that abandonment has been declared. This notice also shall state the penalties incurred to the date of the notice. Penalties will continue to accrue when construction has been abandoned until all remedial measures required by the building official have been completed to the satisfaction of the building official.

(e) It is declared that any violation of the provisions of this chapter shall, in addition to any other remedy, constitute a public nuisance, and such nuisance may be abated as provided by law.

15.46.080 Construction completion deposit.

(a) Before a new building permit may be issued, the property owner shall deliver to the building department a refundable deposit based on the estimated square footage of the work as determined by the building official. The deposit shall be as follows: 1) for projects with an estimated square footage of up to 5000 square feet, the deposit shall be ten thousand dollars (\$10,000); 2) for projects with an estimated square footage between 5,000 to 10,000 square feet, the deposit shall be twenty-five thousand dollars (\$25,000); and for projects with an estimated square footage above 10,000 square feet, the deposit shall be fifty thousand dollars (\$50,000).

(b) When construction is completed within the time limits provided herein, the construction completion deposit shall be refunded to the property owner.

(c) Upon failure of a property owner to complete construction by the time limits established in this chapter, the deposit shall be incrementally forfeited to the City for the period of time that construction was not timely completed. The Director of Community Development may waive the imposition of penalties if he or she determines that all construction activities were timely completed but the final inspections by City staff were delayed for reasons not due to the fault of the property owner.

15.46.090 Appeals.

(a) A penalty imposed pursuant to this chapter may be appealed by the owner of the property where the construction is occurring, and a decision of the building official made pursuant to section 15.46.060 may be appealed to the City Council by any interested party. An appeal of any penalty that is imposed must be based on the grounds that the property owners were unable to comply with the construction time limit for reasons beyond the control of themselves and their representatives.

(1) For purposes of this section, the grounds for appeal shall include, but are not limited to: labor stoppages; acts of war or terrorism; natural disasters; fire; presence of endangered species, and unforeseen discovery of archaeological remains on the building site.

(2) For purposes of this section, the grounds for appeal shall not include: delays caused by the winter-rainy season; the use of custom and/or imported materials; the use of highly specialized subcontractors; significant, numerous, or late design changes; access difficulties associated with the site; failure of materials suppliers to provide such materials in a timely manner; or delays associated with project financing.

(b) An appeal made pursuant to this section shall be filed in writing with the city clerk within ten calendar days from the date of construction completion, the date that a notice of abandonment is sent to the property owner pursuant to Section 15.46.070(c), or the date that the building official determines that the required remedial measures have been completed satisfactorily, along with payment of an appeal fee as established by a resolution adopted by the City Council. The City Council will hold a hearing on the appeal and shall affirm or modify the decision of the building official made pursuant to section 15.46.060 or shall affirm, modify, or cancel any penalty that has been imposed.

(c) When filing an appeal pursuant to this chapter, the property owner shall submit documentary and other evidence sufficient to establish that design decisions, construction drawings and documents, bids and construction contracts, permit applications, and compliance with all required permit conditions were undertaken in a diligent and timely manner. Required documentary and other evidence shall demonstrate to the satisfaction of the City Council that construction delays resulted from circumstances fully out of his or her control and despite diligent and clearly documented efforts to achieve construction completion within the time limits established in this chapter.

15.46.100 Administration and enforcement.

(a) The full amount of construction completion penalties due the City under Section 15.46.070 shall be due immediately upon the completion of the construction project or upon completion of the required remedial measures when abandonment has been declared and the City's subsequent determination of the penalty amount. The City shall notify the property owner by mail of the number of days the project remained unfinished beyond the time limit for completion of construction established by Section 15.46.050 and the resulting penalty amount owed to the City. Any penalty amount in excess of the construction completion deposit shall be paid within 30 days of the date of mailing the letter by first class mail to the property owner and shall occur prior to the approval of the work by the building official. Any penalty amount not paid within 30 days shall be subject to an additional 10% (ten percent) penalty.

(b) Any amount in excess of the sum deposited with the City as a construction completion deposit and due to the City by property owner(s) as a result of violation of the provisions of this chapter, including all penalties and interest as provided in subsection (b) above, is not only a personal debt owed to the City by the owner(s) of the subject property but also is an obligation that runs with the land and all subsequent owners of the property pursuant to Section 15.46.030. In addition to all other means of enforcement and collection, any unpaid penalties and interest may be collected through the placement of a lien against the subject real property in the manner provided by law for the collection of costs related to the abatement of a nuisance.

(c) The provisions of this chapter shall not be the exclusive remedy for addressing delayed completion of construction. In addition to the remedies provided by this chapter, the City may pursue any other actions and remedies provided by law including but not limited to nuisance abatement proceedings.

Section 2. Ordinance No. 548U and Ordinance No. 549 are hereby repealed. Accordingly, Section 15.18.050 of Chapter 15.18 of Title 15 of the Rancho Palos Verdes Municipal Code is hereby amended to delete the last paragraph thereof to read as follows:

15.18.050 - Administrative Code amended—Expiration of permits.

Notwithstanding the provisions of Section 15.18.010 of this chapter, Sections 105.3.2 and 105.5 are amended to read:

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant up to two extensions of time for additional periods not exceeding not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Plan checks for development projects where permits have expired for a period of less than one year shall be assessed a fee equal to ½ of the amount of the applicable plan check fee, as set forth in the resolution establishing said fee, if the plans that are being resubmitted are identical to the prior plans. Said fee shall be paid when the plans are re-submitted for review by the building official.

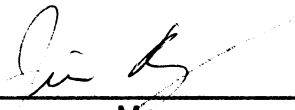
105.5 Expiration. Every permit issued by the building official under the provisions of the technical codes shall expire by limitation and become null and void, if the building or work authorized by such permit is not completed through final inspection within the allowed time from the date of issuance of such permit, which time shall be as follows: up to 5,000 square feet, 18 months; 5,000 to 10,000 square feet, 24 months; over 10,000 square feet, 30 months. For good cause, upon initial application for a permit, the building official may establish a different expiration date when it is anticipated such date will be necessary to complete construction due

to extenuating circumstances or when the construction is required to be completed within the time period of previously issued unexpired permits. Upon expiration, before work under the permit can be recommenced, a new permit shall be obtained. Such new permit shall be valid for 24 months, and the fee therefor shall be one-half the amount required for a new permit for such work, if no changes have been made or will be made in the original plans and specifications for the work and not more than one year has passed since the expiration of the permit; otherwise, such new permit shall be subject to all terms and conditions applicable to new permits.

Any permittee holding an unexpired permit may apply for an extension of the time within which the permittee may complete work under that permit when the permittee is unable to complete the work within the time required by this section although proceeding with due diligence. An application for extension shall be filed on forms prescribed by the building official and be accompanied by payment of the fee as established by resolution. The building official may extend the time for completion of work under the permit by the permittee for a period of time not exceeding 180 days upon finding the permittee has been proceeding with due diligence and that circumstances beyond the control of the permittee have prevented action from being completed. No permit shall be so extended more than once.

Section 3. The City Clerk shall cause this Ordinance to be posted in three (3) public places in the City within fifteen (15) days after its passage, in accordance with the provisions of Section 36933 of the Government Code. The City Clerk shall further certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of the Council of this City.

PASSED, APPROVED and ADOPTED this 2nd day of December 2014.



Mayor

ATTEST:



City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss
CITY OF RANCHO PALOS VERDES)

I, Carla Morreale, City Clerk of the City of Rancho Palos Verdes, do hereby certify that the whole numbers of the City Council of said City is five; that the foregoing Ordinance No. 563 passed first reading on November 18, 2014, was duly and regularly adopted by the City Council of said City at a regular meeting thereof held on December 2, 2014, and that the same was passed and adopted by the following vote:

AYES:	Brooks, Campbell, Duhovic, Misetich and Mayor Knight
NOES:	None
ABSENT:	None
ABSTAINED:	None



City Clerk



RANCHO PALOS VERDES

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF RANCHO PALOS VERDES)

AFFIDAVIT OF POSTING

The undersigned, being first duly sworn, deposes and says:

That at all times herein mentioned, she was and now is the appointed Deputy City Clerk
of the City of Rancho Palos Verdes;

That on December 4, 2014, she caused to be posted the following document entitled: **ORDINANCE NO. 563, AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES REGARDING PROLONGED CONSTRUCTION PROJECTS THAT ARE ADVERSELY AFFECTING NEIGHBORING PROPERTIES, REPEALING ORDINANCE NO. 548U AND ORDINANCE NO. 549 AND AMENDING THE RANCHO PALOS VERDES MUNICIPAL CODE**, a copy of which is attached hereto, in the following locations:

City Hall
30940 Hawthorne Blvd.
Rancho Palos Verdes

Ladera Linda Community Center
32201 Forrestal Drive
Rancho Palos Verdes

Hesse Park
29301 Hawthorne Blvd.
Rancho Palos Verdes

I certify under penalty of perjury that the foregoing is a true and correct affidavit of posting.


Deputy City Clerk